

HOUSE BILL 3673

By Stewart

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 105, Part 1, relative to blasting.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-105-105, is amended by deleting the language of such section in its entirety and by substituting instead the following:

Section 68-105-105.

(a) At any dwelling house, public building, school, church, commercial or institutional building normally occupied within one-half (1/2) mile of any blast hole, the responsible blasting firm shall provide the owner or occupant a pre-blast survey at no charge. The survey shall be provided in writing by the blasting firm at least seventy-two (72) hours prior to commencement of the blasting operation. All surveys shall be completed prior to the commencement of the blasting operation and shall note in writing any cracks, fissures, separations or other such disturbances in such structures. The surveys shall also include tests for flow volume, sediment and heavy metals in all wells and streams located on such real property included in the survey area. If such blaster fails to provide a survey then any cracks, fissures, separations or other such disturbances in such structures, or any increase in flow volume, sediment and heavy metals in all wells and streams in such area shall be inferred to be the result of actions by the blaster. Such inference may be overturned by clear and convincing evidence to the contrary.

(b) The blaster shall take photographs of any cracks, fissures, separations, or other such disturbances in structures, wells and streams in

subsection (a). Written notations and photographs shall be acknowledged in writing by a person over eighteen (18) years of age who lives or works in a dwelling house, public building, school, church, or commercial or institutional building within the affected area. Copies of such written notations and photographs shall be provided upon request to the owner of any dwelling house, public building, school, church, or commercial or institutional building, or property where a well or stream is located. Photographs shall be identified by the date they were taken and the person who took the photograph. A person who lives or works in a dwelling house, public building, school, church, or commercial or institutional building within the affected area who does not complete a survey shall not be entitled to a rebuttable inference as provided in subsection (c).

(c) In any action against a blaster for damages to a dwelling house, public building, school, church, commercial or institutional building, or well or stream, there shall be a rebuttable inference that cracks, fissures, separations, or other such disturbances that do not appear in written notes or photographs signed by the owner of such property and that occur within six (6) months of blasting were the result of blasting. The provisions of this subsection shall apply only to dwelling houses, public buildings, schools, churches, commercial or institutional buildings, or wells and streams within one-half (1/2) mile distance of blasting operations.

(d) Complete documentation of surveys, including all photographs, may be requested from the blasting firm by each owner or occupant in writing. Documentation shall be provided by the blasting firm in a timely manner. Each survey shall document all structural and cosmetic flaws noted at that time.

SECTION 2. The department shall promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. This act shall take effect July 1, 2010, the public welfare requiring it.